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4 FACEBOOK, INC., et al.,
5 Plaintiffs,
6 v.
7 BASANT GAJJAR,
8 Defendant.

9 Case No. [4:20-cv-02429-KAW](#)
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12 **ORDER REGARDING 11/2/21 JOINT
13 DISCOVERY LETTER BRIEFS**

14 Re: Dkt. Nos. 54, 55, 56

15 On March 8, 2021, Defendant Basant Gajjar filed a motion to dismiss for lack of
16 jurisdiction. On May 4, 2021, the Court vacated the hearing on the pending motion to dismiss and
17 granted Plaintiffs Facebook, Inc. and Instagram, LLC's request for leave to conduct jurisdictional
18 discovery. (Dkt. No. 40.) In its order, the Court advised the parties that it expected supplemental
19 briefing if, after the conclusion of the jurisdictional discovery, the parties believed that the motion
still required resolution. *Id.* at 2. Since then, the Court has approved three stipulations extending
the deadline to conduct jurisdictional discovery, which were sought because the parties were
engaging in settlement negotiations. (Dkt. Nos. 42, 45, 47.)

20 It appears that those negotiations were not fruitful, because, on October 28, 2021, Plaintiffs
21 filed a request for a telephonic conference to enforce the Court's meet and confer requirement
22 pursuant to Paragraph 17 of the undersigned's standing order. (Dkt. No. 49.) Therein, Plaintiffs
23 included Defendant's position, which, at the time, Defendant insisted on including in full for each
24 disputed request rather than by reference:

25 This discovery and the lawsuit is nothing but mean-spirited
26 overkill designed to punish a foreign national for the prior actions of
27 third party advertisers over whom he has no control. As of
September, Plaintiffs Facebook (and Instagram) had a market
capitalization of ~\$1.7 trillion and are bludgeoning a Thai resident
with endless litigation and excessive discovery that goes well
beyond an effort to assess jurisdiction. Plaintiffs have already

1 achieved the stated aim of this litigation, which is the complete
2 cessation of Leadcloak. 100% of the claimed misconduct on
3 Plaintiffs' websites were admittedly caused by third party
4 advertisers – not by Defendant Gajjar. It has long been true that
5 Leadcloak software could not be purchased by customers/IP
6 addresses based in the US (defeating special jurisdiction). On
7 October 23, 2021, Leadcloak's website shut down for good. There is
8 nothing left for this Court to enjoin. There is no purpose in
9 persisting with this lawsuit. There is no basis for any more discovery
10 -- particularly the overbroad merits discovery being sought by
11 Plaintiffs.

12 [REDACTED]
13 [REDACTED].² Unfortunately, Plaintiffs
14 were interested only in financially ruining him. They have
15 succeeded. The website is shut down. Mr. Gajjar can no longer
16 afford to have counsel defend him in this action. Accordingly,
17 Defendants' counsel will be filing Motions to Withdraw as Counsel
18 by October 28, 2021.

19 This Court should not further contribute to the injustice created
20 by the insurmountable disparity of wealth between a one trillion
21 dollar company and a private individual living in Thailand. The
22 discovery sought by Plaintiffs should be denied.

23 (Dkt. No. 49 at 3:3-16) (emphasis in original.)

24 On October 29, 2021, the undersigned granted Plaintiffs' request and explicitly advised
25 Defendant that “[t]he Court does not, however, find that the language Defendant purportedly
26 insisted on including repeatedly could be relevant to any discovery dispute....” (10/29/21 Order,
Dkt. No. 51 at 2 n.1 (citing Dkt. No. 49 at 3:3-16).) Additionally, defense counsel was cautioned
that, “while the Court is aware that defense counsel is seeking to withdraw from representation of
Defendant Basant Gajjar for nonpayment (Dkt. Nos. 48 & 50), they are reminded that they remain
counsel of record until the motions [to withdraw] are granted, and they are expected to act
accordingly.” (10/29/21 Order at 1.)

27 On November 2, 2021, the parties filed three separate joint discovery letters pertaining to
28 the sufficiency of Defendant's responses to Plaintiffs' requests for admission (Dkt. No. 54),
requests for production of documents (Dkt. No. 55), and interrogatories (Dkt. No. 56.) Despite the
October 29, 2021 admonition regarding the language quoted above, Defendant provided the exact
response—minus the redacted settlement communication, which the Court instructed Defendant
was improper—as his position in all three joint discovery letters. (Dkt. No. 55 at 1-2; Dkt. No. 55 at
2; Dkt. No. 56 at 2.) Defendant then proceeded to incorporate the same, untenable position by

United States District Court
Northern District of California

1 reference in response to every disputed discovery request. To the extent that Defendant made any
2 additional arguments, they generally pertained to the merits of the case or were not a valid
3 objection. One such example was that, in response to Interrogatory No. 7, Defendant argued that
4 “explain the basis’ of multiple statements in [multiple] paragraphs is not an appropriate discovery
5 request.” (Dkt. No. 56 at 3.) While this interrogatory may have two discrete subparts, that would
6 only pose an issue if Plaintiffs exceeded the number of permitted interrogatories under Rule 33.
7 Since that has presumably not occurred, then Defendant must answer fully.

8 As a result, Defendant has failed to make a showing that he should not have to adequately
9 respond to discovery. In fact, the insistence on cutting and pasting a position that the undersigned
10 has already found to be irrelevant to any discovery dispute in three, separate discovery letters is
11 sanctionable under Rule 37. Defendant’s untenable position on the merits of the case does not
12 render the discovery objectionable under Rule 26. To the contrary, the disputed requests are
13 relevant to determining whether the Court may exercise jurisdiction over Defendant.

14 The Court again advises counsel that filing motions to withdraw does not relieve them of
15 their obligation to meaningfully engage in discovery. Counsel should not be abandoning their
16 client absent a court order permitting withdrawal, particularly since jurisdictional discovery has
17 been open for six months, and the pending motion to dismiss will require supplemental briefing.

18 For the reasons set forth above, Plaintiffs’ request to compel supplemental responses to
19 their requests for admission, requests for production of documents, and interrogatories is
20 GRANTED. Defendant shall serve supplemental responses to the following discovery requests
21 within 14 days of this order:

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- 23 • Requests for Admission Nos. 1-4, and 6-11;
- 24 • Requests for Production of Documents Nos. 1-6, 12, 14-17, 19, and 22;
- 25 • Interrogatory Nos. 2, 3, 6-9, and 11.

26 IT IS SO ORDERED.

27 Dated: November 16, 2021

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KANDIS A. WESTMORE
United States Magistrate Judge